

OCT 13 2020

PLD-C-001

<p><small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)</small> Spencer Penuela, Esq. (SBN: 324544) MICHAEL & ASSOCIATES, PC 555 St. Charles Drive, Suite 204, Thousand Oaks, CA 91360 <small>TELEPHONE NO:</small> (805) 379-8505 <small>FAX NO (Optional)</small> (805) 379-8525 <small>E-MAIL ADDRESS (Optional)</small> <small>ATTORNEY FOR Name,</small> American Express National Bank, Successor by Merger to American Express Bank, FSB</p>	<p><small>FOR COURT USE ONLY</small></p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA <small>STREET ADDRESS</small> 800 South Victoria Avenue <small>MAILING ADDRESS</small> <small>CITY AND ZIP CODE</small> Venrtura, CA 93009 <small>BRANCH NAME</small> Ventura Hall of Justice</p>	
<p><small>PLAINT FF:</small> American Express National Bank, Successor by Merger to American Express Bank, FSB <small>DEFENDANT:</small> Dana C Nielsen, aka Dana Nielsen, aka Dana C Sesma, aka Dana C Nielson, aka Dana C Patterson, an individual <input checked="" type="checkbox"/> DOES 1 TO <u>20</u></p>	
<p align="center">CONTRACT</p> <p><input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Number):</p> <p><input type="checkbox"/> CROSS-COMPLAINT <input type="checkbox"/> AMENDED CROSS-COMPLAINT (Number):</p>	
<p><small>Jurisdiction (check all that apply):</small> <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited</p>	<p><small>CASE NUMBER:</small></p>

1. Plaintiff* (name or names): American Express National Bank, Successor by Merger to American Express Bank, FSB
 a. 'eges causes of action against defendant* (name or names): Dana C Nielsen, aka Dana Nielsen, aka Dana C Sesma, aka Dana C Nielson, aka Dana C Patterson, an individual; Does 1 to 20.
2. This pleading, including attachments and exhibits, consists of the following number of pages: 11
3. a. Each plaintiff named above is a competent adult
 ☒ except plaintiff (name): American Express National Bank, Successor by Merger to American Express Bank, FSB
 (1) ☒ a corporation qualified to do business in California
 (2) ☐ an unincorporated entity (describe):
 (3) ☐ other (specify):
- b. ☐ Plaintiff (name):
 a. ☐ has complied with the fictitious business name laws and is doing business under the fictitious name (specify):
 b. ☐ has complied with all licensing requirements as a licensed (specify):
- c. ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.
4. a. Each defendant named above is a natural person
 ☐ except defendant (name):
 (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify)
- ☐ except defendant (name):
 (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe):
 (4) ☐ a public entity (describe):
 (5) ☐ other (specify):

* If this form is used as a cross-complaint, plaintiff means cross-complainant, and defendant means cross-defendant

Page 1 of 2

JK

SHORT TITLE: AMEX vs. Nielsen. et al.	CASE NUMBER:
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4. *continued*

b. The true names of defendants sued as Does are unknown to plaintiff.

- (1) ☒ Doe defendants (specify Doe numbers): 1-10, inclusive were the agents or employees of the named defendants and acted within the scope of that agency or employment.
- (2) ☒ Doe defendants (specify Doe numbers): 11-20, inclusive are persons whose capacities are unknown to plaintiff.
- c. ☐ Information about additional defendants who are not natural persons is contained in Attachment 4c.
- d. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

5. ☐ Plaintiff is required to comply with a claims statute, and

- a. ☐ has complied with applicable claims statutes, or
- b. ☐ is excused from complying because (specify)

6. ☐ This action is subject to ☐ Civil Code section 1812.10 ☐ Civil Code section 2984.4.

7. This court is the proper court because

- a. ☐ a defendant entered into the contract here.
- b. ☐ a defendant lived here when the contract was entered into.
- ☒ c. a defendant lives here now.
- d. ☐ the contract was to be performed here.
- e. ☐ a defendant is a corporation or unincorporated association and its principal place of business is here.
- f. ☐ real property that is the subject of this action is located here.
- g. ☐ other (specify):

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- ☐ Breach of Contract
- ☒ Common Counts
- ☐ Other (specify):

9. ☐ Other allegations

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. ☒ damages of: \$ 36,795.98
- b. ☐ interest on the damages
- (1) ☐ according to proof
- (2) ☐ at the rate of (specify): percent per year from (date):
- c. ☐ attorney's fees
- (1) ☐ of \$
- (2) ☐ according to proof.
- d. ☐ other (specify):

11. ☒ The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

Date: October 7, 2020

Spencer Penuela, Esq. (SBN: 324544)

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

SHORT TITLE: AMEX vs. Nielsen, et al.	CASE NUMBER:
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FIRST

(number)

CAUSE OF ACTION—Common Counts

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff (name): American Express National Bank, Successor by Merger to American Express Bank, FSB

alleges that defendant (name): Dana C Nielsen, aka Dana Nielsen, aka Dana C Sesma, aka Dana C Nielsen, aka Dana C Patterson, an individual. Does 1 to 20

became indebted to ☒ plaintiff ☐ other (name):a. ☒ within the last four years(1) ☒ on an open book account for money due.(2) ☒ because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.b. ☐ within the last ☐ two years ☐ four years(1) ☐ for money had and received by defendant for the use and benefit of plaintiff.(2) ☐ for work, labor, services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff.☐ the sum of \$☐ the reasonable value.(3) ☐ for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff☐ the sum of \$☐ the reasonable value.(4) ☐ for money lent by plaintiff to defendant at defendant's request.(5) ☐ for money paid, laid out, and expended to or for defendant at defendant's special instance and request.(6) ☐ other (specify):

CC-2. \$36,795.98

, which is the reasonable value, is due and unpaid despite plaintiff's demand,

plus prejudgment interest ☐ according to proof ☐ at the rate of _____ percent per year

from (date):

CC-3. ☐ Plaintiff is entitled to attorney fees by an agreement or a statute☐ of \$☐ according to proof.CC-4. ☐ Other:

Page 3 of 11

Page 1 of 1

SHORT TITLE: AMEX vs. Nielsen, et al.	CASE NUMBER:
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SECOND

(number)

CAUSE OF ACTION—Common CountsATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff (name): American Express National Bank, Successor by Merger to American Express Bank, FSB

alleges that defendant (name): Dana C Nielsen, aka Dana Nielsen, aka Dana C Sesma, aka Dana C Nielson, aka Dana C Patterson, an individual, Does 1 to 20

became indebted to ☒ plaintiff ☐ other (name):a. ☐ within the last four years(1) ☐ on an open book account for money due.(2) ☐ because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.b. ☒ within the last ☐ two years ☒ four years(1) ☐ for money had and received by defendant for the use and benefit of plaintiff.(2) ☐ for work, labor, services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff.☐ the sum of \$☐ the reasonable value.(3) ☐ for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff☐ the sum of \$☐ the reasonable value.(4) ☒ for money lent by plaintiff to defendant at defendant's request.(5) ☐ for money paid, laid out, and expended to or for defendant at defendant's special instance and request.(6) ☐ other (specify):

CC-2. \$36,795.98

, which is the reasonable value, is due and unpaid despite plaintiff's demand,

plus prejudgment interest ☐ according to proof ☐ at the rate of _____ percent per year

from (date):

CC-3. ☐ Plaintiff is entitled to attorney fees by an agreement or a statute☐ of \$☐ according to proof.CC-4. ☐ Other:Page 4 of 11

EXHIBIT “A”

**Business Platinum Card**

NIELSEN LEGACY LLC

DANA C. NIELSEN

Closing Date 09/06/19 Next Closing Date 10/07/19

p. 1/3

Account Ending 3001

New Balance**\$36,795.98****Pay Past Due Amount Immediately***

* Pay past due amount of \$36,795.98 immediately. Payment is due upon receipt; we suggest you pay the remaining balance by 09/21/19. You may be charged a late fee of the greater of \$39.00 or 2.99% of the past due Pay in Full amount if your payment is not received by the Next Closing Date.

See page 2 for important information about your account.

See page 5 for an Important Notice About Changes to Your Cardmember Agreement.

This statement is for information purposes only. This is not a bill. Please contact your collections agency for account information. Disregard the Minimum Payment Due, your account is in default and the balance is due in full.

Please note, your preset line is \$20,300.00. You have spent \$36,795.98.

Visit

www.membershiprewards.com**Account Summary**

Previous Balance	\$36,795.98
Payments/Credits	-\$0.00
New Charges	+\$0.00
Fees	+\$0.00

New Balance \$36,795.98

Days in Billing Period: 30

Customer Care**Pay by Computer**
americanexpress.com/business

Customer Care	Pay by Phone
1-800-492-8468	1-800-472-9297

See page 2 for additional information.

↓ Please fold on the perforation below, detach and return with your payment ↓

**Payment Coupon**

Do not staple or use paper clips

**Pay by Computer**americanexpress.com/business**Pay by Phone**

1-800-472-9297

Account Ending 3001

Enter 15 digit account # on all payments.
Make check payable to American Express.

DANA C. NIELSEN

VENTURA CA 93001-4128

Amount Due
\$36,795.98

Check here if your address or
phone number has changed.
Note changes on reverse side.



AMERICAN EXPRESS
PO BOX 0001
LOS ANGELES CA 90096-8000

Payments: Your payment must be sent to the payment address shown on your statement and must be received by 5 p.m. local time at that address to be credited as of the day it is received. Payments we receive after 5 p.m. will not be credited to your Account until the next day. Payments must also: (1) include the remittance coupon from your statement; (2) be made with a single check drawn on a US bank and payable in US dollars, or with a negotiable instrument payable in US dollars and clearable through the US banking system; and (3) include your Account number. If your payment does not meet all of the above requirements, crediting may be delayed and you may incur late payment fees and additional interest charges. Electronic payments must be made through an electronic payment method payable in US dollars and clearable through the US banking system. If we accept payment in a foreign currency, we will convert it into US dollars at a conversion rate that is acceptable to us, unless a particular rate is required by law. Please do not send post-dated checks as they will be deposited upon receipt. Any restrictive language on a payment we accept will have no effect on us without our express prior written approval. We will re-present to your financial institution any payment that is returned unpaid.

Permission for Electronic Withdrawal: (1) When you send a check for payment, you give us permission to electronically withdraw your payment from your deposit or other asset account. We will process checks electronically by transmitting the amount of the check, routing number, account number and check serial number to your financial institution, unless the check is not processable electronically or a less costly process is available. When we process your check electronically, your payment may be withdrawn from your deposit or other asset account as soon as the same day we receive your check, and you will not receive that cancelled check with your financial account statement. If we cannot collect the funds electronically we may issue a draft against your deposit or other asset account for the amount of the check. (2) By using Pay By Computer, Pay By Phone or any other electronic payment service of ours, you give us permission to electronically withdraw funds from the deposit or other asset account you specify in the amount you request. Payments using such services of ours received after 8:00 p.m. MST may not be credited until the next day.

How We Calculate Your Balance: We use the Average Daily Balance (ADB) method (including new transactions) to calculate the balance on which we charge interest for Pay Over Time balances on your Account. Call the Customer Care number listed below for more information about this balance computation method and how resulting interest charges are determined. *The method we use to calculate the ADB and interest results in daily compounding of interest.*

How to Avoid Paying Interest: If you have a Pay Over Time balance, your due date is at least 25 days after the close of each billing period. We will not charge interest on charges added to a Pay Over Time balance if you pay the Account Total New Balance by the due date each month.

Foreign Currency Charges: If you make a Charge in a foreign currency, we will convert it into US dollars on the date we or our agents process it. We will choose a conversion rate that is acceptable to us for that date, unless a particular rate is required by law. The conversion rate we use is no more than the highest official rate published by a government agency or the highest interbank rate we identify from customary banking sources on the conversion date or the prior business day. This rate may differ from rates in effect on the date of your charge. Charges converted by establishments will be billed at the rates such establishments use.

Credit Balance: A credit balance (designated CR) shown on this statement represents money owed to you. If within the six-month period following the date of the first statement indicating the credit balance you do not request a refund or charge enough to use up the credit balance, we will send you a check for the credit balance within 30 days if the amount is \$1.00 or more.

Credit Reporting: We may report information about your Account to credit bureaus. Late payments, missed payments, or other defaults on your Account may be reflected in your credit report.



Customer Care & Billing Inquiries
International Collect
Large Print & Braille Statements
Express Cash

1-800-492-8468
1-623-492-7719
1-800-492-8468
1-800-CASH-NOW

Hearing Impaired
TTY: 1-800-221-9950
FAX: 1-623-707-4442
In NY: 1-800-522-1897



Website: americanexpress.com

**Customer Care
& Billing Inquiries**
P.O. BOX 981535
EL PASO, TX
79998-5335

Payments
PO BOX 0001
LOS ANGELES CA
90096-0001

Change of Address

If correct on front, do not use.

- To change your address online, visit: www.americanexpress.com/updatecontactinfo
- For Name, Company Name, and Foreign Address or Phone changes, please call Customer Care.
- Please print clearly in blue or black ink only in the boxes provided.

Street Address	
City, State	
Zip Code	
Area Code and Home Phone	
Area Code and Work Phone	
Email	

Pay Your Bill with AutoPay

Avoid late fees
Save time

Deduct your payment from your bank account automatically each month

Visit americanexpress.com/autopay today to enroll.

For information on how we protect your privacy and to set your communication and privacy choices, please visit: www.americanexpress.com/privacy.



Business Platinum Card
NIELSEN LEGACY LLC
DANA C. NIELSEN
Closing Date 09/06/19

p. 3/6

Account Ending 3001

Fees

	Amount
Total Fees for this Period	\$0.00

2019 Fees and Interest Totals Year-to-Date

	Amount
Total Fees in 2019	\$2,275.81
Total Interest in 2019	\$0.00



Business Platinum Card
NIELSEN LEGACY LLC
DANA C NIELSEN
Closing Date 09/06/19

p. 5/6

Account Ending 3001

Notice of Important Changes to Your Cardmember Agreement

We are making changes to your American Express Cardmember Agreement referenced in this notice. We encourage you to read this notice, share it with Additional Card Members on your account, and file it for future reference. The detailed changes to your Cardmember Agreement can be found after the below summary chart.

Summary of Changes, Effective Immediately	
Claims Resolution	We are making changes to the claims resolution section in your Cardmember Agreement. These changes will be reflected on your billing statements received on or after September 1, 2019 .

ID: 2820

See the following page for the Detail of Changes to your Cardmember Agreement

Detail of Changes to Your Cardmember Agreement

This notice amends your American Express Cardmember Agreement ("Agreement") as described below. Any terms in the Cardmember Agreement conflicting with this change are completely replaced. Terms not changed by this notice continue to apply. If you have any questions, please call the number on the back of your Card.

Effective Immediately, the Claims Resolution section in Part 2 of the Cardmember Agreement is amended as follows:

Mediation

The seventh sentence is deleted and replaced with: All applicable statutes of limitation will be tolled from the date you or we send the claim notice until termination of the mediation.

Arbitration

The sixth sentence is deleted and replaced with: The arbitrator's authority is limited to claims between you and us alone. Claims may not be joined or consolidated unless you and we agree in writing. An arbitration award and any judgment confirming it will apply only to the specific case and cannot be used in any other case except to enforce the award. The arbitrator's decisions are as enforceable as any court order and are subject to very limited review by a court.

Limitations on Arbitration

The third, fourth, and fifth sentences are deleted.

Arbitration Procedures

The fifth sentence is deleted and replaced with: You and we agree that the arbitration will be confidential. You and we agree that we will not disclose the content of the arbitration proceeding or its outcome to anyone, but you or we may notify any government authority of the claim as permitted or required by law.

The eighth and ninth sentences are deleted and replaced with: The arbitrator's award will be final and binding, subject to each party's right to appeal as stated in this section and/or to challenge or appeal an arbitration award pursuant to the FAA. To initiate an appeal, a party must notify the arbitration organization and all parties in writing within 35 days after the arbitrator's award is issued. The arbitration organization will appoint a three-arbitrator panel to decide anew, by majority vote based on written submissions, any aspect of the decision objected to. The appeal will otherwise proceed pursuant to the arbitration organization's appellate rules.

Additional Arbitration Awards

The section is deleted and replaced with: If the arbitrator rules in your favor for an amount greater than any final offer we made before the final hearing in arbitration, the arbitrator's award will include: (1) any money to which you are entitled, but in no case less than \$5,000; and (2) any reasonable attorneys' fees, costs and expert and other witness fees.